

# SENATE BILL No. 718

September 4, 2007, Introduced by Senators JACOBS, ANDERSON and BASHAM and referred to the Committee on Judiciary.

A bill to amend 1915 PA 31, entitled  
"Youth tobacco act,"  
by amending section 1 (MCL 722.641), as amended by 2006 PA 236.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. (1) A person shall not sell, give, or furnish a  
2 tobacco product to a minor. ~~A BOTH OF THE FOLLOWING APPLY TO A~~  
3 **VIOLATION OF THIS SUBSECTION:**

4           **(A) EXCEPT AS PROVIDED IN SUBDIVISION (B),** A person ~~who~~ **THAT**  
5 violates this subsection is guilty of a misdemeanor punishable by a  
6 fine of not more than ~~\$50.00~~ **\$500.00** for each violation.

7           **(B) IF THE PERSON WHO VIOLATES THIS SUBSECTION IS AN**  
8 **INDIVIDUAL WHO WAS ACTING IN THE COURSE OF HIS OR HER EMPLOYMENT**  
9 **WITH A PERSON THAT SELLS TOBACCO PRODUCTS AT RETAIL AT THE TIME OF**  
10 **THE VIOLATION OF THIS SUBSECTION, HE OR SHE IS GUILTY OF A**

1 **MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$50.00 FOR EACH**  
2 **VIOLATION.**

3 (2) A person ~~who~~**THAT** sells tobacco products at retail shall  
4 post, in a place close to the point of sale and conspicuous to both  
5 employees and customers, a sign produced by the department of  
6 community health that includes the following statement:

7 "The purchase of tobacco products by a minor under 18 years of  
8 age and the provision of tobacco products to a minor are prohibited  
9 by law. A minor unlawfully purchasing or using tobacco products is  
10 subject to criminal penalties."

11 (3) If the sign required under subsection (2) is more than 6  
12 feet from the point of sale, it shall be 5-1/2 inches by 8-1/2  
13 inches and the statement required under subsection (2) shall be  
14 printed in 36-point boldfaced type. If the sign required under  
15 subsection (2) is 6 feet or less from the point of sale, it shall  
16 be 2 inches by 4 inches and the statement required under subsection  
17 (2) shall be printed in 20-point boldfaced type.

18 (4) The department of community health shall produce the sign  
19 required under subsection (2) and have adequate copies of the sign  
20 ready for distribution to licensed wholesalers, secondary  
21 wholesalers, and unclassified acquirers of tobacco products free of  
22 charge. Licensed wholesalers, secondary wholesalers, and  
23 unclassified acquirers of tobacco products shall obtain copies of  
24 the sign from the department of community health and distribute  
25 them free of charge, upon request, to persons ~~who~~**THAT** are subject  
26 to subsection (2). The department of community health shall provide  
27 copies of the sign free of charge, upon request, to persons subject

1 to subsection (2) ~~who~~**THAT** do not purchase their supply of tobacco  
2 products from wholesalers, secondary wholesalers, and unclassified  
3 acquirers of tobacco products licensed under the tobacco products  
4 tax act, 1993 PA 327, MCL 205.421 to 205.436.

5 (5) It is an affirmative defense to a charge under subsection  
6 (1) that the defendant had in force at the time of arrest and  
7 continues to have in force a written policy to prevent the sale of  
8 tobacco products to persons under 18 years of age and that the  
9 defendant enforced and continues to enforce the policy. A defendant  
10 ~~who~~**THAT** proposes to offer evidence of the affirmative defense  
11 described in this subsection shall file and serve notice of the  
12 defense, in writing, upon the court and the prosecuting attorney.  
13 The notice shall be served not less than 14 days before the date  
14 set for trial.

15 (6) A prosecuting attorney who proposes to offer testimony to  
16 rebut the affirmative defense described in subsection (5) shall  
17 file and serve a notice of rebuttal, in writing, upon the court and  
18 the defendant. The notice shall be served not less than 7 days  
19 before the date set for trial and shall contain the name and  
20 address of each rebuttal witness.

21 (7) Subsection (1) does not apply to the handling or  
22 transportation of a tobacco product by a minor under the terms of  
23 that minor's employment.